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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, HELENA DIVISION**

MONTANA ENVIRONMENTAL
INFORMATION CENTER,

Plaintiff,

v.

UNITED STATES BUREAU OF LAND
MANAGEMENT

Defendant.

Cause No.: _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

COMES NOW Plaintiff Montana Environmental Information Center (“MEIC”), through counsel, who files this Complaint against Defendant United States Bureau of Land Management (“BLM”) for its violation of the Freedom of Information Act (“FOIA”).

PARTIES

1. Plaintiff Montana Environmental Information Center is a non-profit organization dedicated to defending the public interest in protecting and restoring Montana’s environment. MEIC has over five thousand members and supporters across Montana and the United States and works to ensure that government and private entities engage in safe, environmentally responsible, and lawful mining activity, thereby helping to provide cleaner air and water for all. The records sought in this action are requested in support of these efforts.

2. Defendant United States Bureau of Land Management is a federal agency. It is in possession and control of the records sought by MEIC, and as such, it is subject to the FOIA pursuant to 5 U.S.C. § 552(f).

JURISDICTION, VENUE AND BASIS FOR RELIEF

3. This Court has jurisdiction over this matter pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331 because this action arises under the FOIA.

4. Venue is appropriate under 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. § 703, and 28 U.S.C. § 1391.

5. Declaratory relief is appropriate under 28 U.S.C. § 2201.

6. Injunctive relief is appropriate under 28 U.S.C. § 2202 and 5 U.S.C. § 552(a)(4)(B).

FACTS

7. On or about December 14, 2020, MEIC submitted a document request, under FOIA, to BLM, through BLM's web-based FOIA request platform. The web based FOIA platform is available on the FOIA website at <https://foiaonline.gov/foiaonline/action/public/request> where users enter a description of the requested information and other parameters associated with the request. MEIC requested documents in BLM's files regarding federal mining claims in Meagher County, Montana, applied for and acquired by Tintina Montana (also known as or DBA Black Butte Copper, Tintina, Inc., and Sandfire Resources). As a non-profit, education institution, MEIC requested that the fees associated with the request be waived.

8. On December 14, 2020, BLM sent MEIC an automated response, notifying MEIC the FOIA request had been received. The response provided a tracking number, requester name,

the date submitted, and an attachment with a description of the request. The letter was not, and did not purport to be, the detailed response required by 5 U.S.C. § 552 (a)(6)(A)(i).

9. On March 4, 2020, an MEIC staff member sent a follow-up email to a contact person within the BLM staff regarding the request. MEIC did not receive a response to this status inquiry. The inquiry was sent three months after the twenty (20) day statutory deadline for BLM to respond to the initial request.

10. MEIC has not received the public records it requested of BLM, through FOIA, approximately eight months ago. MEIC has been hampered in its ongoing work to protect Montana's clean air and water from unlawful mining activity. This information is critical in determining matters of importance to MEIC's membership and the public regarding the Black Butte Copper Project along and near the headwaters of a much-treasured Montana resource, the Smith River. The process through which BLM approved federal mining claim lease applications from Tintina Montana is of critical importance in determining the legality of the process in which the BLM administered a public resource on federal lands. The requested documents should be readily available for dissemination to the public in order for the public to confirm the legality of the leasing process for this important public resource. MEIC has had to hire an attorney to pursue this claim.

**CAUSE OF ACTION
COUNT ONE – FOIA VIOLATION**

11. The preceding paragraphs are realleged as though set forth in full hereunder.

12. Plaintiff MEIC has a statutory right to have Defendant BLM process its FOIA request in compliance with the provisions and timelines of FOIA.

13. MEIC's rights were violated when BLM unlawfully failed to respond to MEIC's request with a determination within the deadline imposed by the FOIA. 5 U.S.C.

§ 552(a)(6)(A)(i) provides:

(6)

(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of—

(I) such determination and the reasons therefor;

(II) the right of such person to seek assistance from the FOIA Public Liaison of the agency; and

(III) in the case of an adverse determination—

(aa) the right of such person to appeal to the head of the agency, within a period determined by the head of the agency that is not less than 90 days after the date of such adverse determination; and

(bb) the right of such person to seek dispute resolution services from the FOIA Public Liaison of the agency or the Office of Government Information Services; .

...

The BLM also failed to provide the other disclosures required by the statute.

14. Based on the nature of MEIC's organizational activities, it will undoubtedly continue to employ the FOIA's provisions in information requests to BLM in the foreseeable future.

15. MEIC's organizational activities will be adversely affected if BLM is allowed to continue violating the FOIA's response deadlines as it has in this case.

16. Unless enjoined and made subject to a declaration of MEIC's legal rights by this Court, BLM will continue to violate the rights of MEIC to receive public records under FOIA.

17. MEIC is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA, for this violation. 5 U.S.C. § 552(a)(4)(E).

PRAYER FOR RELIEF

WHEREFORE, The Plaintiffs pray for the following relief:

1. Declare that Defendant BLM violated FOIA by failing to make a timely determination on MEIC's records request;
2. Direct by injunction that BLM immediately make a determination on MEIC's records request and provide MEIC with the records responsive to its request by a date certain;
3. Award MEIC its costs and reasonable attorney fees pursuant to 5 U.S.C. § 552(a)(4)(E) and 28 U.S.C. § 2412, or any other applicable law; and
4. Grant such other and further relief as the Court may deem just and proper.

DATED this 13th day of August, 2021.

MORRISON SHERWOOD WILSON & DEOLA

By: /s/ David K. W. Wilson, Jr.
Attorneys for Plaintiff